

EXHIBIT 4

8/4/2014

<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES DISTRICT COURT FOR 2 THE NORTHERN DISTRICT OF GEORGIA 3 NEWNAN DIVISION 4 5 CIVIL ACTION NUMBER 6 3:14-cv-40-TCB 7 8 NATALIE BACHO and STEPHEN BACHO, as 9 surviving Parents of A.B., a deceased minor, 10 Plaintiff(s), 11 vs. 12 ROUGH COUNTRY, LLC, et al., 13 Defendant(s). 14 15 16 VIDEO DEPOSITION TESTIMONY OF: 17 KEN DUNN 18 19 August 4, 2014 20 9:55 a.m. 21 22 23 24 COURT REPORTER: 25 DAVID L. MILLER, CCR, RMR</p>	<p style="text-align: right;">Page 3</p> <p>1 I N D E X 2 EXAMINATION BY: PAGE NO. 3 Mr. Willingham 8 4 Certificate 283 5 Deponent's Certificate 286 6 7 8 INDEX OF EXHIBITS 9 EXHIBITS PAGE NO. 10 PLAINTIFF'S 1 Judge's instructions 9 11 PLAINTIFF'S 2 RC filing information 12 12 PLAINTIFF'S 3 Mendoza complaint 82 13 PLAINTIFF'S 4 Photographs 85 14 PLAINTIFF'S 5 Mendoza settlement 109 15 PLAINTIFF'S 6 Code of Ethics 115 16 PLAINTIFF'S 7 Deposition notice 132 17 PLAINTIFF'S 8 Southside Liners order 137 18 PLAINTIFF'S 9 Taylor Long invoice 137 19 PLAINTIFF'S 10 RC web page 146 20 PLAINTIFF'S 11 RC suspension kit 150 21 PLAINTIFF'S 12 Warning to Driver 154 22 PLAINTIFF'S 13 AAMVA Study 156 23 PLAINTIFF'S 14 GM placard 166 24 PLAINTIFF'S 15 Zurich Loss Prevention 188 25 PLAINTIFF'S 16 F-150 Owner's manual 195</p>
<p style="text-align: right;">Page 2</p> <p>1 S T I P U L A T I O N 2 IT IS STIPULATED AND AGREED by and 3 between the parties throught their respective 4 counsel that the deposition of KEN DUNN, may be 5 taken before David L. Miller, Registered Merit 6 Reporter and Notary Pulbic, State at Large, at 7 The Westin Memphis Beale Street, Memphis, 8 Tennessee, on August 4, 2014, commencing at 9 approximately 9:55 a.m. 10 IT IS FURTHER STIPULATED AND AGREED 11 that the signature to and the reading of the 12 deposition by the witness is NOT waived, the 13 deposition to have the same force and effect as 14 if full compliance had been had with all laws 15 and rules of Court relating to the taking of 16 depositions. 17 IT IS FURTHER STIPULATED AND AGREED 18 that it shall not be necessary for any 19 objections to be made by counsel to any 20 questions, except as to form or leading 21 questions, and that counsel for the parties may 22 make objections and assign grounds at the time 23 of trial or at the time said deposition is 24 offered in evidence, or prior thereto. 25</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX OF EXHIBITS 2 EXHIBITS PAGE NO. 3 PLAINTIFF'S 17 Photograph 224 4 PLAINTIFF'S 18 Photograph 221 5 PLAINTIFF'S 19 Photograph 222 6 PLAINTIFF'S 20 Photograph 223 7 PLAINTIFF'S 21 Photograph 225 8 PLAINTIFF'S 22 Photograph 226 9 PLAINTIFF'S 23 Stax survey 235 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 (Pages 1 to 4)

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8/4/2014

Page 81

1 manufactured the lift kit that was at issue in
2 the Gomez case, or is that something that is
3 unknown?

4 A. We don't manufacture, but we cause
5 the manufacture. But to answer your question, I
6 don't believe anything has been determined.

7 Q. Do you know what the allegation is
8 by the Gomez family in that case?

9 A. To be honest, I'm not familiar
10 with the details in terms of what the allegation
11 is. The focus has been on if there was a
12 product on the truck that was involved, and how
13 it was modified; and then whose product was on
14 it. I don't think we have ever got past that.

15 Q. You got past that in the Mendoza
16 cash, correct?

17 You don't dispute that that was a
18 Heckethorn product that was involved in the
19 Mendoza case, correct?

20 A. Yeah. That was a Rough Country
21 suspension system.

22 Q. It was a five-inch suspension
23 system on a Dodge pickup truck; does that meet
24 with your recollection?

25 A. A three-quarter ton Dodge pickup

Page 82

1 truck, yes.

2 Q. Do you recall what the allegation
3 that was made by the Mendoza family in that case
4 was?

5 A. The exact allegation I -- no.

6 Q. Let me show you what I have marked
7 as Plaintiff's Exhibit Number 3.

8 (WHEREUPON, a document was marked
9 as Plaintiff's Exhibit 3 and is attached to the
10 original transcript.)

11 MR. BEANS: Aren't we four? Three
12 was the Secretary of State of Tennessee.

13 MR. WILLINGHAM: That was 2, I
14 thought.

15 MR. BEANS: Okay. My mistake.
16 Sorry.

17 MR. WILLINGHAM: You will find
18 that I will do that not only from time to time,
19 but all the time. That's why have I Mary Leah
20 helping me.

21 Q. (BY MR. WILLINGHAM) If you would,
22 please, sir, look at Plaintiff's Exhibit Number
23 3. Let me ask you, first off, have you seen
24 that document before today?

25 A. I'm sure I have; but it's been

Page 83

1 obviously, what, four years -- three or four
2 years.

3 Q. Do you have any recollection of
4 seeing this document before I just handed it to
5 you?

6 A. Like I said, I'm sure I have. I
7 mean, I --

8 Q. If you will look at the second
9 page, under Roman numeral five, Causes of
10 Action, bottom of the page. Do you see that?

11 A. Yes.

12 Q. Could you read that first sentence
13 for me.

14 A. "The lift kit installed on the
15 subject 2006 Dodge Ram 2500 pickup truck was
16 designed, manufactured, marketed, and sold by
17 the defendant, Heckethorn Products, Inc."

18 Q. And, again, Heckethorn Products,
19 Inc., is the predecessor of Rough Country, LLC,
20 correct?

21 A. Correct.

22 Q. And on the next page, paragraph
23 one, it states that, "The lift kit was
24 defectively designed because, once installed, it
25 results in an unreasonably dangerous bumper

Page 84

1 height on the subject vehicle."

2 Did I read that correctly?

3 A. That's the allegation; and, yes,
4 you read it correctly.

5 Q. Number two, that, "The lift kit
6 was defective and unreasonably dangerous
7 because, once installed, it resulted in an
8 unreasonably dangerous bumper height that
9 bypasses most, if not all, of the safety
10 protections afforded by passenger vehicles in
11 foreseeable accidents."

12 Did I read that correct?

13 A. Again, that was the allegation;
14 and, yes, you read that correctly.

15 Q. You understood that was the
16 allegation made by the Mendoza family?

17 A. That was the allegation made by
18 their attorney. I never actually interacted
19 with the Mendoza family.

20 Q. You gave a deposition in that
21 case, did you not?

22 A. Yes, I did.

23 Q. I will show you that. Let's mark
24 these. We will make these, collectively,
25 Plaintiff's Exhibit Number 4.

21 (Pages 81 to 84)

8/4/2014

Page 281

1 A. Based on what I understand, I
2 would -- I would say that that is our
3 understanding of the situation.
4 Q. And Rough Country does not accept
5 any responsibility for Abby's injury and death,
6 correct?
7 A. We don't, at this point, see
8 anything that would indicate that we were
9 responsible.
10 Q. Do you in any way -- strike that.
11 I assume that you do not in any
12 way attribute any fault in causing this crash or
13 Abby's injury to her mother, Natalie, or anyone
14 else who was riding in that vehicle, do you?
15 A. I am not in a position to try to
16 make that determination. That's not something
17 that I -- I don't have comfort trying to make
18 any determination like that.
19 Q. All right. You don't have some
20 reason to believe, do you, that Natalie Bacho
21 was somehow responsible for causing this crash,
22 do you?
23 A. I have no idea.
24 Q. Okay. How many lift kits --
25 six-inch lift kits does Rough Country sell every

Page 282

1 year? Ballpark.
2 A. I can -- I -- I would hate to
3 guess. I don't know a number.
4 Q. Your annual sales, as you told me,
5 should exceed thirty million dollars; is that
6 right?
7 A. Yes.
8 MR. WILLINGHAM: Okay. I would
9 offer Plaintiff's Exhibits 1 through 23.
10 And with that, thank you very
11 much.
12 MR. BEANS: Thank you.
13 THE WITNESS: Thank you.
14 VIDEOGRAPHER: This marks the end
15 of tape number six, and concludes the
16 deposition. We are off the record at 4:52 PM.
17
18 FURTHER DEPONENT SAITH NOT
19
20
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25

Page 283

1 CERTIFICATE
2
3 STATE OF ALABAMA)
4 JEFFERSON COUNTY)
5
6 I hereby certify that the above and
7 foregoing deposition was taken down by me in
8 stenotype, and the questions and answers thereto
9 were transcribed by means of computer-aided
10 transcription, and that the foregoing represents
11 a true and correct transcript of the proceedings
12 taken down by me and transcribed by me.
13 I further certify that I am neither of
14 counsel nor of kin to the parties to the action,
15 nor am I in anywise interested in the result of
16 said cause.
17 I further certify that I am duly
18 licensed by the ABCR as a Certified Court
19 Reporter as evidenced by the ACCR number
20 following my name found below.
21
22
23 DAVID L. MILLER, ACCR #347
24 Georgia License #6322-0018-0740-9152
25 My commission expires 2-11-2018

Page 284

1 KEN DUNN
2
3 INSTRUCTIONS TO THE WITNESS
4
5 Please read your deposition over
6 carefully before you sign it. You should make
7 all your changes on the attached errata sheet.
8 After making any changes which you have
9 noted on the attached errata sheet, sign your
10 name on the Deponent's Certificate and date it.
11 You are signing it subject to the changes you
12 have made on the errata sheet, which will be
13 attached to the deposition.
14 Return the attached errata sheet and
15 Deponent's Certificate to Birmingham Reporting
16 Service, Read & Sign Department, 600 North 20th
17 Street, Birmingham, Alabama 35203.
18 According to the Rules of Civil
19 Procedure, you will have thirty (30) days from
20 the date you receive this deposition in which to
21 read it, sign it, and return the errata sheet
22 and Deponent's Certificate to the above office.
23 If you fail to do so, you automatically waive
24 your right to make any corrections to your
25 deposition.

71 (Pages 281 to 284)

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